

Official Guide to Firearm Sales

White Paper

E4473

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Introduction

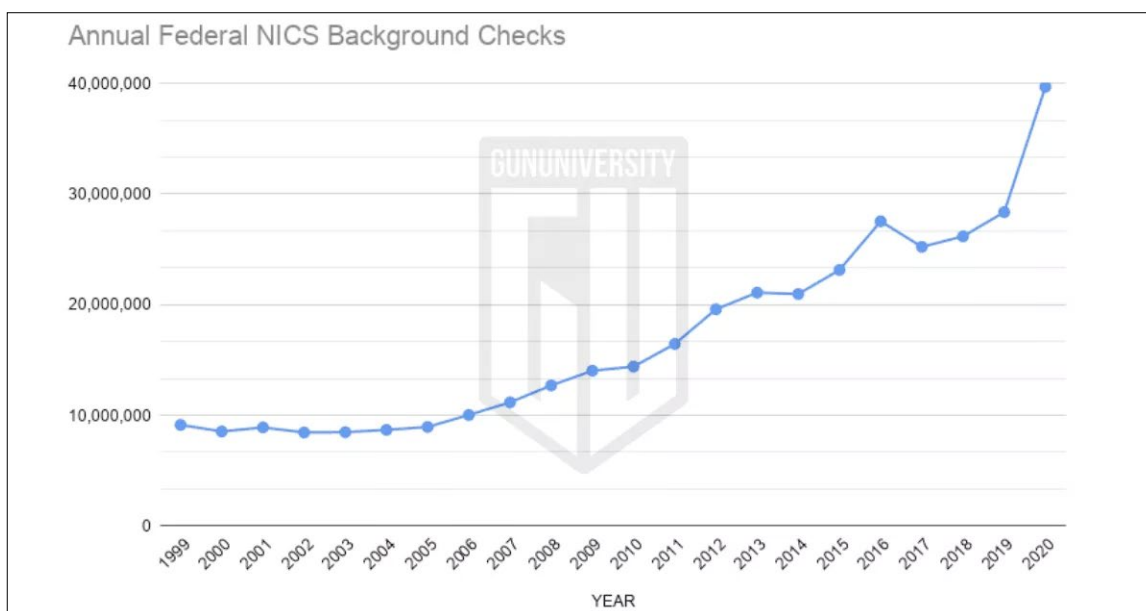
Firearms sales are at an all time high as we begin 2021. More than 2 million firearms were bought in January, representing a growth of 80 percent year-over-year.

“Background checks, and sales of firearms and ammunition, have been increasing pace for months. The surge is in line with the record pace set in 2020: Nearly 23 million firearms were bought, representing a 64 percent jump year over year.” (SOURCE)

In February, there were 3,442,777 NICS checks, an increase of 22% over the previous year. “Typically, the NICS checks in February are on par with, or slightly above, January’s numbers. However, in January 2021, there were over 4 million NICS background checks – that’s an all-time record in a single month.” (SOURCE) Gun inventory has been low at many retailers, so it’s reasonable to assume that had inventory been higher, sales would also have been higher.

With the ongoing uncertainty in the United States over unrest in urban areas, pandemic restrictions, and fear of increased regulation and challenges to the second amendment, now is a good time to take an in-depth look at firearms sales laws across America.

All gun sales are subject to national and local laws and firearms regulation is an area of shared authority among federal, state, and local governments. Federal law is a floor for legal transactions, with states free to add additional regulations that don’t conflict with federal law.



Background

Gun Sales History in The United States

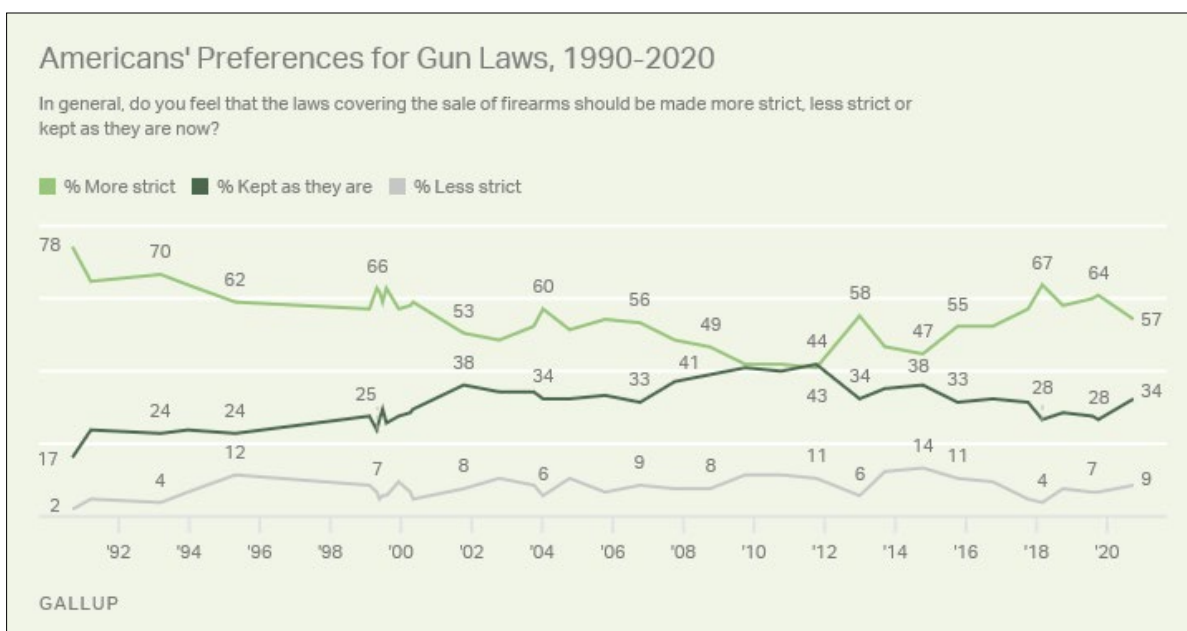
THE 18TH, 19TH, AND 20TH CENTURIES

In the 1800s, firearms were a cottage industry. The American government's early interest in gun laws was tied to public safety. Beginning in the 18th century and continuing through the 19th, laws were on the books that dealt with the manufacturing, inspection, and sale of weapons. Many of the laws in this category pertained to the sale of gunpowder because loose gunpowder served as the igniting force. Other laws restricted the sale of firearms to minors, convicts, inebriates, those with poor moral character, and the mentally ill.

In the early 20th century, "at least eight states regulated, barred, or licensed firearms sales. For example, Florida (1927),¹²⁷ Georgia (1902),¹²⁸ and North Carolina (1905)¹²⁹ gave localities the power to license, regulate, or even bar the commercial sale of firearms. In a 1917 law, New Hampshire required the licensing of gun dealers...New Jersey prohibited pawn brokers from selling or in any manner transferring any firearms. New York established a registration system for all handgun sales...In a 1925 law, West Virginia barred the "public display" of any firearms for sale or rent, or ammunition."⁶

THE 21ST CENTURY

The 21st century finds Americans deeply divided over gun laws, and who should be allowed to purchase a firearm. "Americans are less likely than they have been since 2016 to call for increased gun control. The latest majority (57%) in the U.S. who call for stricter laws covering the sale of firearms marks a seven-percentage-point decline since last year. At the same time, 34% of U.S. adults prefer that gun laws be kept as they are now, while 9% would like them to be less strict." In 1990, 78% of Americans favored stricter gun laws. (SOURCE)



Firearm sales saw a spike in 2020 due to concerns about COVID-19 lockdowns, riots, protests, and the possibility of restrictions on gun ownership during a new presidential administration. In a research study of 1,432 people conducted in May 2020, 18% reported buying a gun during the pandemic.

“In multiple regression analyses, significant predictors of pandemic purchase of firearms were: having children at home, owning firearms before the pandemic, planning to buy firearms in the next year, knowing someone who was shot or killed with a firearm, and personally experiencing firearm violence in the past.”²

The leading reason was for personal and family protection, which isn’t surprising. A 2017 Pew Research study prior to the pandemic found that “Two-thirds of gun owners (67%) say that [protection] is a major reason why they own a firearm.” (SOURCE)

SALES AT GUN SHOWS

The ATF estimates that 5,000 gun shows are held annually in the United States. After the GCA of 1968 and before the Firearm Owners Protection Act of 1986, gun dealers were prohibited from selling firearms at gun shows. A little fewer than half of the states currently require a background check for private firearms transactions, including gun shows. “Most gun shows have 2,500 to 15,000 attendees over a two-day period. The number of tables at a gun show varies from as few as fifty to as many as 2,000. At the largest gun shows, over 1,000 firearms are sold over two days.”

(SOURCE: WIKIPEDIA)



Laws vary substantially, with California recently introducing a bill which would prohibit a state employee or operator of “state-owned property, from contracting for, authorizing, or allowing the sale of any firearm or ammunition.” On the other end of the spectrum, Arizona is considered by many to be the most friendly second amendment state and one of 30 that doesn’t require background checks at gun shows. Another 2A friendly state, Texas, hosts the most gun shows annually.

THE RISE OF ONLINE GUN SALES

The online gun and ammunition sales industry has grown 9.2% on average between 2015 and 2020, and is expected to increase 6.8% in 2021. Online gun sales account for 2% and represent approximately 5.4 million firearms. There is a large revenue opportunity for brick and mortar retailers as online gun sales grow to be in line with other retail sectors.

The current presidential administration advocates for greater restrictions on gun sales and has promised to close what it terms as gun show and online loopholes. The information below was current at the time of publication of this white paper.

Federal Regulation of Firearms Sales

THE GUN CONTROL ACT OF 1968

The Gun Control Act (GCA) sets forth who can sell or purchase firearms and how those sales can lawfully take place. Since it was passed in 1968, there have been numerous attempts by lawmakers to expand restrictions on gun purchases and also to prevent or roll back these restrictions. Laws that prohibit high risk individuals from purchasing guns may have a limited impact without additional laws that deter illegal firearm transfers.

“...policies designed to keep firearms from dangerous persons seem logical and have the potential to reduce violence, particularly lethal violence. The fact that a policy is logical or widely supported, of course, does not mean that it is effective or just. Sufficiently motivated and resourceful criminals could circumvent laws designed to prevent their access to firearms in a nation where gun ownership is widespread. Furthermore, firearm sales regulations could, theoretically, have harmful effects on public safety if their primary impact is to depress firearm acquisition among individuals who are at low risk for criminal misuse or suicide and who might incur safety benefits from having a firearm.”³

THE UNITED STATES CONSTITUTION

The authority of Congress to regulate the sale of guns comes from its tax, commerce, and spending powers while subject to the limitations of the second amendment and the fifth amendment's due process clause. “Congress has relied on the Commerce Clause as a constitutional basis for GCA provisions restricting the manufacture, import, sale, transfer, and possession of firearms”.¹

What does it mean to be “engaged in the firearms business”? Dealers are considered to engage in the business if they devote time, attention, and labor in order to earn their livelihood and profit through purchasing and reselling firearms. “Engaging in the business” doesn't include occasional transactions by gun collectors or hobbyists. And the firearms business doesn't need to be the person's primary occupation or sole source of income. The relevant factors are:

- The quantity and frequency of firearms sales
- Where and how the sale occurred
- The seller's behavior before, during, and after the sale
- The type of firearms sold and prices charged
- The seller's intent at the time of the sale¹

INTERSTATE SALES

Firearms dealers may not sell or ship guns to non-FFLs in other states. They may make in-person sales of long guns to qualified buyers who are out-of-state residents as long as they obey the laws of both states. Handguns may be sold only to buyers who are residents of the state. When a gun is lawfully purchased out-of-state, it can be legally taken back to the state of residence.



Background Checks

In 1981, James Brady was wounded and permanently disabled during the attempted assassination of President Ronald Reagan by the mentally ill John Hinckley Jr. Twelve years later, The Brady Handgun Violence Prevention Act of 1993 amended the Gun Control Act of 1968 to require background checks before a gun can be purchased. It established the NICS which is overseen by the FBI.

The Brady Act requires FFLs to conduct background checks on prospective firearm purchasers. To implement background checks, the FBI created the National Instant Criminal Background Check System (NICS). Currently background checks aren't required for private purchases, but Congress has shown an ongoing interest in changing that and on March 11, 2021, H.R. 8 and H.R. 1446 both passed the House of Representatives and were sent to the Senate. (SOURCE)

Four databases are searched during a NICS background check: The NCIC, the Triple I, the NICS index, and the DHS database. The FBI databases only include records of people who commit federal crimes. State level convictions are submitted voluntarily by the individual state.

The National Crime Information Center (NCIC) is "a criminal records database allowing criminal justice agencies to enter or search for information about stolen property, missing or wanted persons, and domestic violence protection orders; to get criminal histories; and to access the National Sex Offender Registry."

The Interstate Identification Index (III) is a national index of criminal histories maintained by the FBI. It includes people who have been arrested for a serious crime anywhere in the U.S and allows states to share information on criminal activity between themselves.

The NICS Index is used to determine whether or not a person is eligible to purchase firearms or explosives. The Department of Homeland Security's Immigration and Customs Enforcement database is used when the prospective buyer isn't a U.S. citizen.

The FBI, through NICS, provides full service background checks for 26 states, the District of Columbia, and three U.S Territories. Twelve states act as a point of contact (POC), which means that FFLs contact the state designated agency directly for background checks. The remaining states act as a partial POC, sharing responsibility with the FBI for background checks. (SOURCE) If NICS staff cannot make a determination within three business days of a background check, the FFL may make the sale and transfer the firearm, unless prohibited by state law.

Firearm Sales Laws by State

"The Constitution establishes a system of dual sovereignty in which 'both the National and State Government have elements of sovereignty the other is bound to respect'. For instance, the Constitution explicitly grants certain legislative powers to Congress in Article I and then reserves all other legislative powers for the states to exercise."¹

LAWS REGARDING LONG GUNS

Because of their history of hunting and sporting use, long guns are less regulated by most states than handguns. While it doesn't affect the sale of long guns, one of the key issues that separates states is open carry. It is almost always allowed because of the need to carry the gun openly while hunting. With respect to sales, some states require permits, registration, and background checks on private transactions. Some states also limit the size of the magazine.

Restrictions on the sale and open carry of long guns and magazine size exist in the following states (SOURCE):

Colorado, Connecticut, Delaware, District of Columbia, Hawaii, New York, Oregon, Rhode Island, Vermont, and Washington. Long guns sales must be completed through a licensed dealer.



California

Long guns and handguns can only be openly carried in some rural counties. A law passed limiting the magazine to 10 rounds, but that law was blocked by the Federal Court in June 2017 and is still unresolved.

Colorado

Open carry is not allowed in posted areas such as Denver. The Colorado Bureau of Investigation must approve the transfer. The magazine is limited to 15 rounds.

Connecticut

There is no law regarding long guns and open carry. A permit is required to purchase and own the long gun. The magazine is limited to 10 rounds.

District of Columbia

A purchase permit is required, the gun must be registered with Metropolitan Police, open carry isn't allowed, and the magazine is limited to 10 rounds.

Florida

Open carry isn't allowed except when hunting or fishing.

Georgia

A license is required for open carry of long guns.

Hawaii

A purchase permit is required and the long gun must be registered.

Illinois

Long guns purchases require an FOID card and the card must be checked during private sales. Open carry isn't allowed.

Maryland

Long gun sales must go through a licensed dealer or the police. Magazine size is limited to 10 rounds. Possession of a higher capacity magazine is legal if purchased out of state.

Massachusetts

A Firearm Identification (FID) license is required to own a long gun. Magazine size is limited to 10 rounds.



Minnesota

During transit, long guns must be unloaded, in their case and legally possessed.

New Jersey

Purchase and carry permits are required for long guns and the magazine size is limited to 10 rounds.

Oklahoma

Open carry of long guns is not permitted.

Oregon

A carry permit is required.

Pennsylvania

A carry permit is required and open carry is allowed except in Philadelphia or in a vehicle.

Vermont

Long gun sales must be through a licensed dealer, unless the sale is to a family member. The magazine size is limited to 10 rounds.

LAWS REGARDING HANDGUNS

Some type of permit is required to purchase a handgun in 13 states and the District of Columbia. There is a waiting period in eight states, and some form of gun registration in five states, Omaha and NYC, and the District of Columbia. There is an approved handgun roster for gun sales in Maryland and Massachusetts. The minimum age to purchase a gun is 21 years old in ten states and Washington DC. Private sale background checks are required in 20 states and DC.

The information below summarizes the differences in state regulations regarding the sale of handguns (SOURCE):

Arkansas, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maine, Mississippi, Missouri, New Hampshire, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, Wisconsin, Wyoming.

A permit is not required to purchase a handgun, there is no waiting period after purchase, no registration requirement, and private firearms transfers are not subject to a background check requirement. The minimum age to purchase a gun is 18.

Alabama

The minimum age to purchase a handgun is 18. No permit is required to purchase a handgun in Alabama and there is no permit, background check or firearms registration required when buying a handgun from a private individual.

Alaska

The minimum age to possess and transport a handgun is 16. There is no firearms registration, no permit is required to purchase firearms and no background check is required to buy a handgun from a private individual.

Arizona

A purchaser must be at least 18 years old to buy a handgun from a private individual. The minimum age to purchase a handgun from a federally licensed dealer is 21. There is no permit, background check or firearms registration required when buying a handgun from a private individual.

California

Handgun purchasers must either possess a Firearm Safety Certificate (FSC) plus successfully complete a safety demonstration with their recently purchased handgun or qualify for an FSC exemption (valid hunting license, active law enforcement or active or honorably discharged military). There is a 10-day waiting period. California is a may-issue state based on an applicant's justified need and suitability. The minimum age to purchase a handgun is 18.

Colorado

The minimum age to purchase a handgun is 18. A permit isn't required to purchase a gun. Colorado requires private gun sellers at gun shows who aren't federally licensed dealers to initiate a background check when transferring a firearm.

Connecticut

The minimum age to purchase a handgun is 21. A buyer must have a CTPP or obtain a Certificate of Eligibility for Pistol and Revolvers. Applicants must complete an approved safety course, and pass a National Instant Criminal Background Check System (NICS) background check and mental health records check prior to issuance of a Certificate of Eligibility. Private party firearms transfers require that a federally licensed dealer performs a background check on the buyer.

Delaware

The minimum age to purchase a handgun is 18. No permit is required to purchase from an FFL. With some exemptions (family members, purchaser holding a concealed carry permit), no unlicensed person shall sell or transfer any firearm to another unlicensed person without having conducted a criminal history background check through a licensed firearms dealer.

District of Columbia

The minimum age to purchase a handgun is 21. A permit is required and the firearms registration process also serves as a permitting process. Private party firearms transfers must be conducted through a licensed dealer, who is required by federal law to perform a background check and keep a record of the sale.

Florida

The minimum age to purchase a handgun is 21. A permit is not required when purchasing a handgun in Florida. There is a waiting period of 3 business days or the time it takes to complete the required criminal background check — whichever occurs later, which doesn't apply to concealed weapons permit holders. Across the state, there is no law requiring a background check on the purchaser of a firearm when the seller is not a licensed dealer. Counties may individually require background checks and waiting periods of 5 days.

Hawaii

A permit is required to purchase and there is a minimum 14-day waiting period except for sales to state or federally licensed dealers, law enforcement officers, and persons with a license to carry a handgun. You will need to consent to mental health, medical and criminal background checks, including fingerprinting. Private gun sales in Hawaii require a purchase permit, which includes a background check. There are no exceptions for gifts, inheritances, bequests or in any other manner. The minimum age to purchase a gun is 21.

Illinois

Firearm Owners Identification Card (FOID) is required when purchasing a handgun in Illinois. If a firearm is being sold privately, then by law the seller must verify the purchaser's FOID card and also keep a record of any sale for a period of 10 years. There is a waiting period of 72 hours. The minimum age to purchase a gun is 18.

Iowa

With an exception for transfers between family members, and including both FFL and private

sales, a person acquiring a handgun must have a permit to acquire pistols or revolvers or a current permit to carry, both of which involve an initial background check. A permit to acquire a handgun becomes valid 3 days after the date of application. The minimum age to purchase a gun is 21.

Maryland

Maryland is one of the most highly regulated states for handguns. A permit is required to purchase, the gun must be registered, there is a waiting period of 7 days, and background checks are required for private sales. In addition, only handguns on the official handgun roster can be sold. The minimum age to purchase a gun is 21.

Massachusetts

A Firearm Identification (FID) card or LTC is required to purchase a firearm. Background checks are required for private sales and only handguns on the official handgun roster can be sold. The minimum age to purchase a gun is 21.

Michigan

Only Michigan residents may purchase pistols in Michigan and the person acquiring the handgun must have a "License to Purchase a Pistol". All handgun sales require a Pistol Sales Record (RI-60) form to be filed with the Michigan State Police. Background checks are required for private sales. The minimum age to purchase a gun is 18.

Minnesota

A background check is required only if the purchaser doesn't have Minnesota Permit to Carry a Pistol or a Permit to Purchase/Transfer a Firearm. There is no waiting period after purchase, no registration requirement, and private firearms transfers are not subject to a

background check requirement. The minimum age to purchase a gun is 18.

Montana

The minimum age to possess and transport a gun is 14. A permit is not required to purchase a handgun, there is no waiting period after purchase, no registration requirement, and private firearms transfers are not subject to a background check requirement.

Nebraska

A handgun certificate or a concealed carry permit is required for the purchase of a handgun. The Lancaster County Sheriff will not issue a Nebraska permit to purchase a handgun if the applicant is a Lincoln resident and is prohibited by Lincoln Municipal Code 9.36.100 from possessing firearms. Background checks are required for private sales. The City of Omaha requires the registration of all handguns. The City of Lincoln requires reporting of firearms sales other than long guns commonly used for sporting purposes. The minimum age to purchase a gun is 18.

Nevada

A background check is required on private firearms sales. A permit is not required to purchase a handgun, there is no waiting period after purchase, and no registration requirement. The minimum age to purchase a gun is 18.

New Jersey

A permit to purchase a handgun, valid for 90 days is required for each handgun purchase. Only one handgun can be purchased within a 30-day period. A lifetime purchaser identification card is required for purchase of rifles and shotguns, as well as for purchases of handgun ammunition. There is a waiting period

of 7 days and since handgun purchase permit records are maintained by the NJ State Police Firearms Investigation Unit, there is de facto mandatory handgun registration for handguns purchased in-state. Background checks are required for private sales. The minimum age to purchase a gun is 21.

New Mexico

A background check is required on private firearms sales. A permit is not required to purchase a handgun, there is no waiting period after purchase, and no registration requirement. The minimum age to purchase a gun is 19.

New York

A concealed carry permit or a permit to possess a pistol or revolver is required to purchase a handgun. The permit to possess can take up to six months to process and handgun registration is required. Background checks are required for private sales. The minimum age to purchase a gun is 21.

NYC

In addition to the state requirements above, pistol permits are prerequisites to purchase handguns and long guns in New York City. To buy a gun, you must first obtain a NYC Pistol License. After you have been interviewed and approved, you can then purchase a handgun from any licensed handgun dealer. After you have purchased your new handgun, you will be required to return to the License Division with your new handgun to have the handgun's make, model, and serial number recorded on your license.

North Carolina

A permit is required to purchase a handgun in North Carolina and background checks are required for private sales. The minimum age to purchase a gun is 18.

Ohio

A permit is not required to purchase a handgun, there is no waiting period after purchase, no registration requirement, and private firearms transfers are not subject to a background check requirement. The minimum age to purchase a gun is 21.

Oregon

A permit is not required to purchase a handgun, there is no waiting period after purchase, no registration requirement, Private firearms transfers are subject to a background check with the exception of family and inheritance. The minimum age to purchase a gun is 18.

Pennsylvania

Private party transfers of handguns must be conducted through a licensed dealer or at a county sheriff's office. A background check is required. These requirements do not apply to transfers between spouses, parents and children or grandparents and grandchildren. There is no permit, registration, or waiting period required. The minimum age to purchase a gun is 18.

Rhode Island

All purchasers of handguns must either have a RI LCCW or complete and pass a minimum two-hour basic handgun safety course administered by the RI Department of Environmental Management (DEM), at which time they will receive a DEM-issued safety certificate. Both licensed dealers and private unlicensed sellers

are required to conduct background checks through the state police or local chief of police. There is a 7-day waiting period. The minimum age to purchase a gun is 18.

Vermont

A permit is not required to purchase a handgun, there is no waiting period after purchase, no registration requirement, Private firearms transfers are subject to a background check with the exception of family. The minimum age to possess and transport is 16.

Virginia

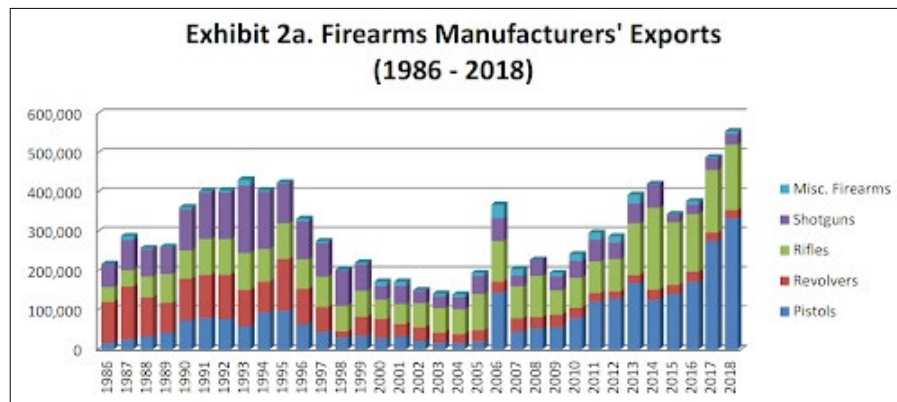
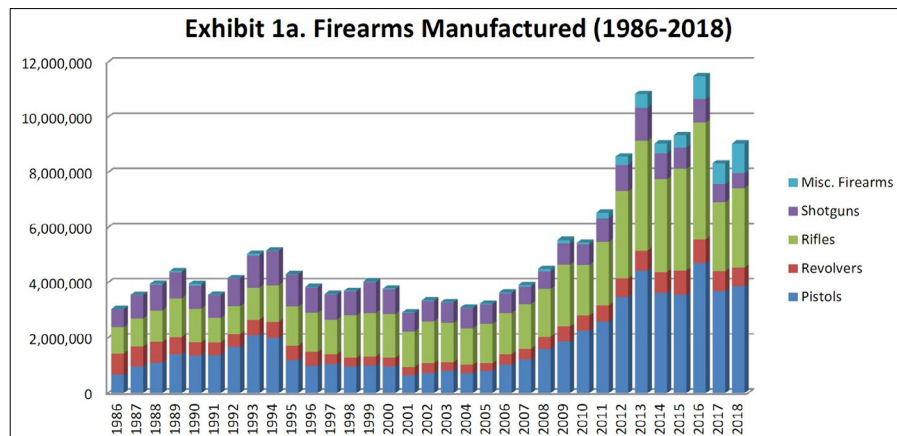
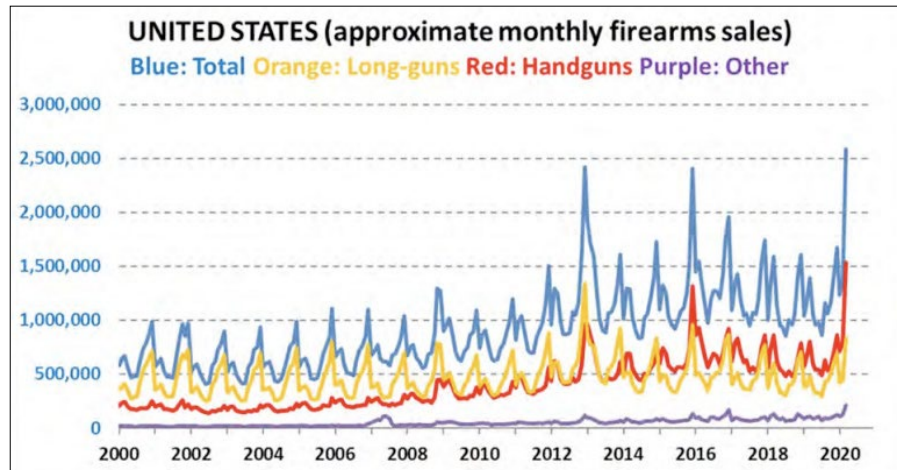
A permit is not required to purchase a handgun, there is no waiting period after purchase, and no registration requirement. Private firearms transfers are subject to a background check. The minimum age to purchase a gun is 18.

Washington

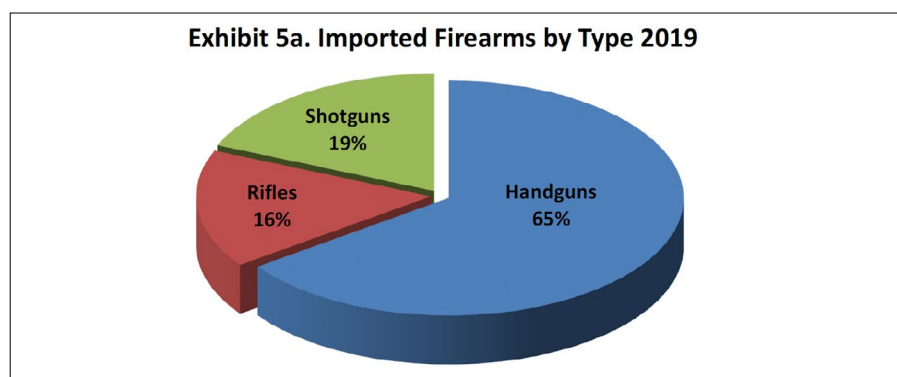
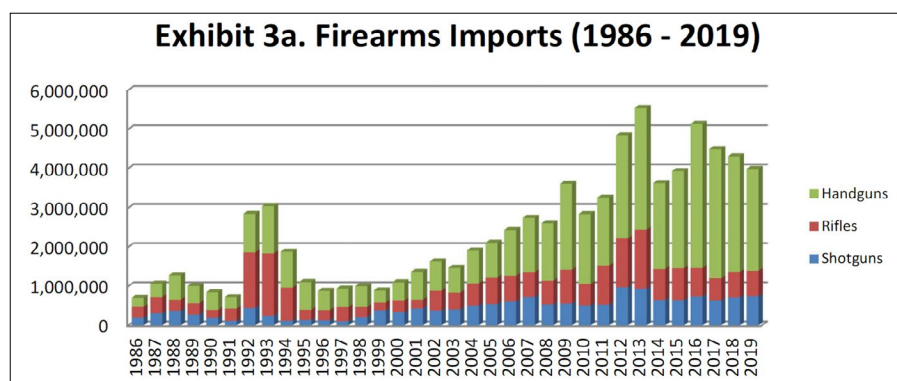
A permit is not required to purchase a handgun and there is no waiting period after purchase. Retail dealers must record and report all retail pistol sales to local police/sheriff and to the State Department of Licensing. Private firearms transfers are subject to a background check. The minimum age to purchase a gun is 18.

Exports, Imports, and Domestic Sales

According to the ATF, 3.04 million guns were manufactured in the United States in 1986. Approximately 76 percent of firearms manufactured from 2009 to 2018 were pistols or rifles. Most new guns available for sale in the United States are manufactured domestically. The United States imported an annual average of 2.4 million firearms from 1986 to 2018.5



Exports, Imports, and Domestic Sales



Conclusion

Gun sales increased substantially between 2008 and 2018. Gun sales spike after mass shootings and when additional gun regulations are feared based on changes in American politics. The United States saw the largest spike in gun sales shortly after the COVID-19 pandemic began to spread in the spring of 2020. Riots and social unrest throughout the summer of 2020 caused sales to remain high during that period. Gun sales have seen another spike in January and February of 2021 in response to promises by the Biden administration to increase and tighten gun regulations.

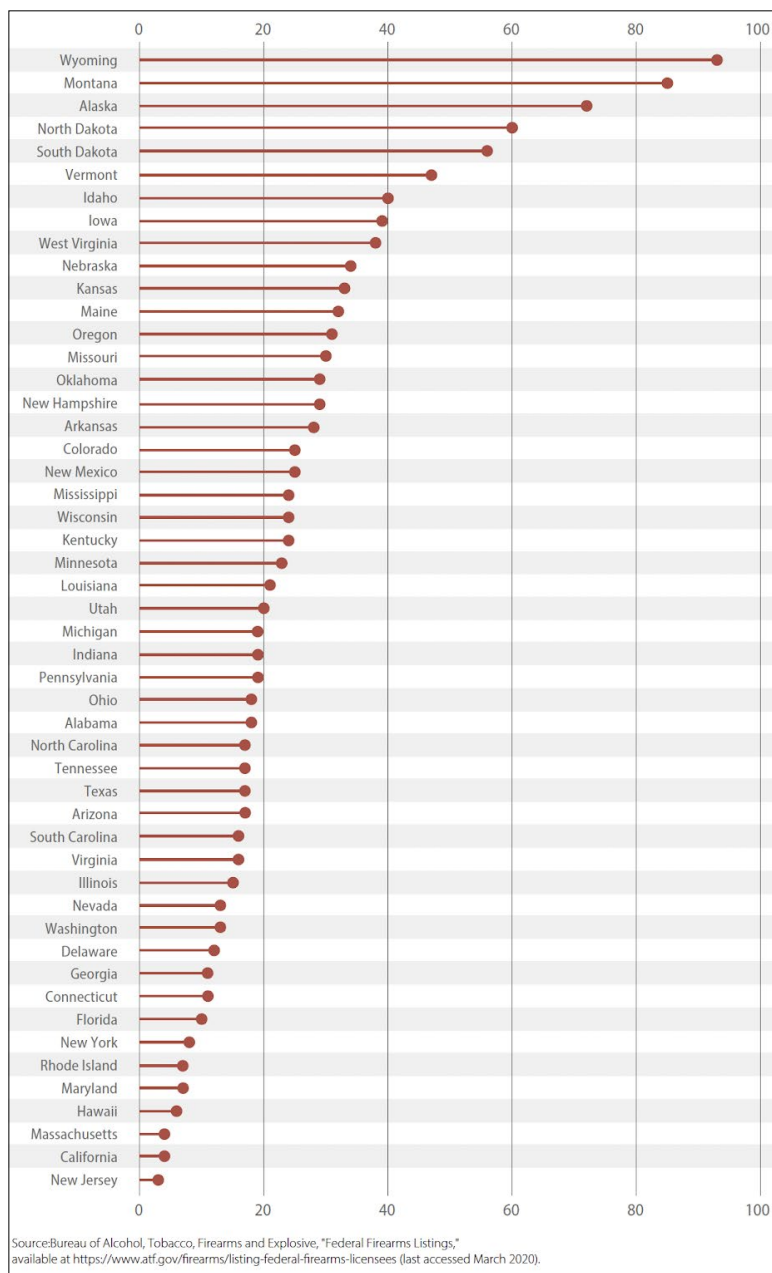
Firearms sales are expected to grow as customers expect more gun regulations and rising crime, they will want to be able to protect themselves, their families, and their property. The landscape for firearms sales is likely to experience many shifts during the next several years and FFLs, gun shop owners, and pawn shop owners need to stay abreast of the changes nationally and locally.

About E4473

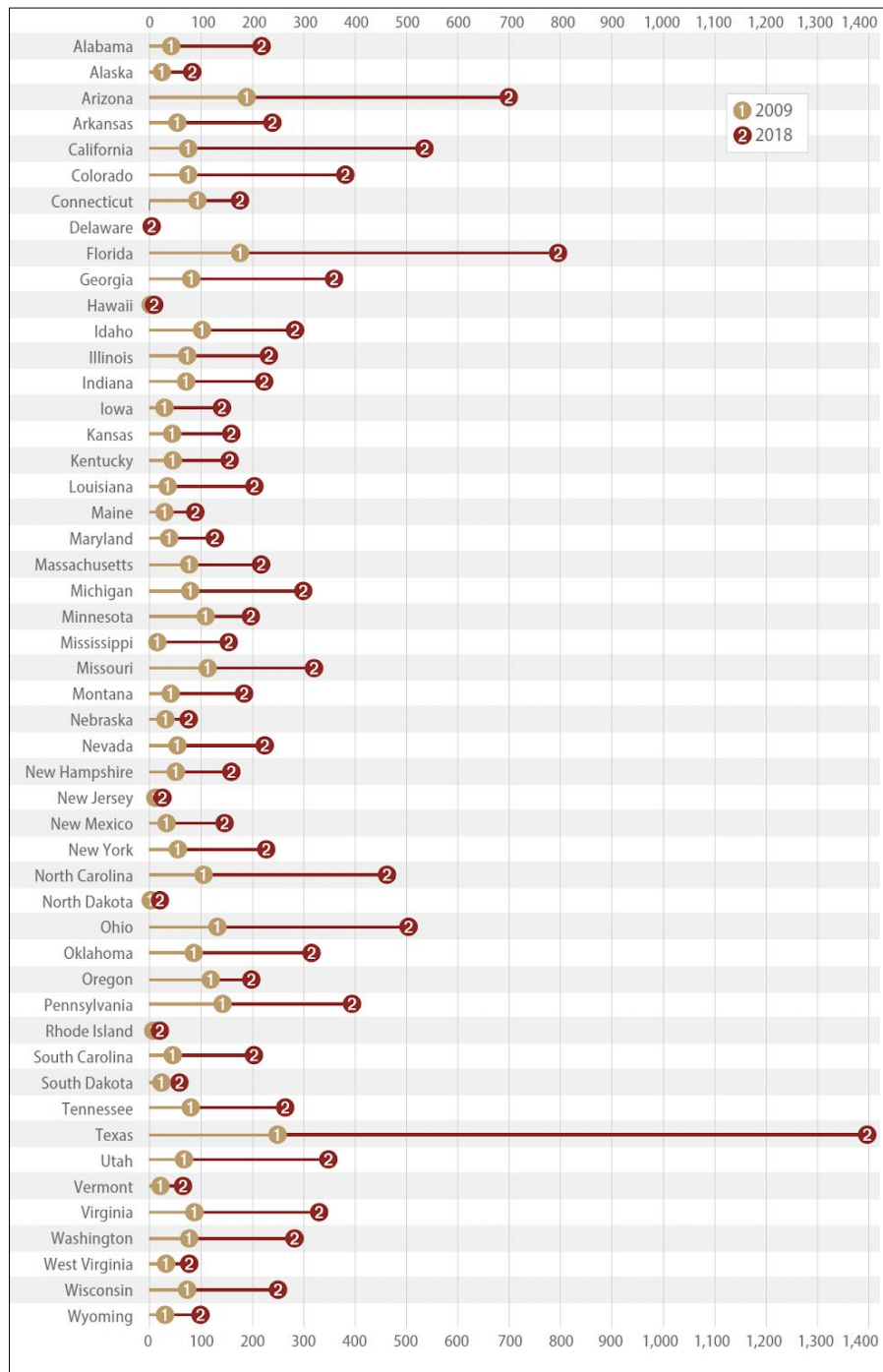
At E4473, we understand the serious responsibility that comes with each firearm sale. E4473 is a solution that prevents errors and increases the security of each transaction and offers a safer way to buy and sell guns. We have years of experience working with gun store owners and a passion for the firearms industry. We take every firearm sale seriously and support the right and responsibility to own firearms.

Figures

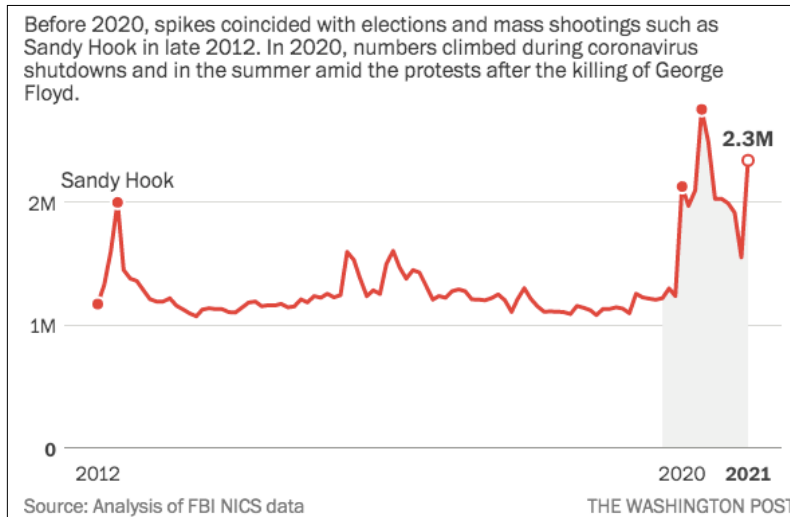
Federally licensed firearm dealers per 100,000 residents by state, 2018



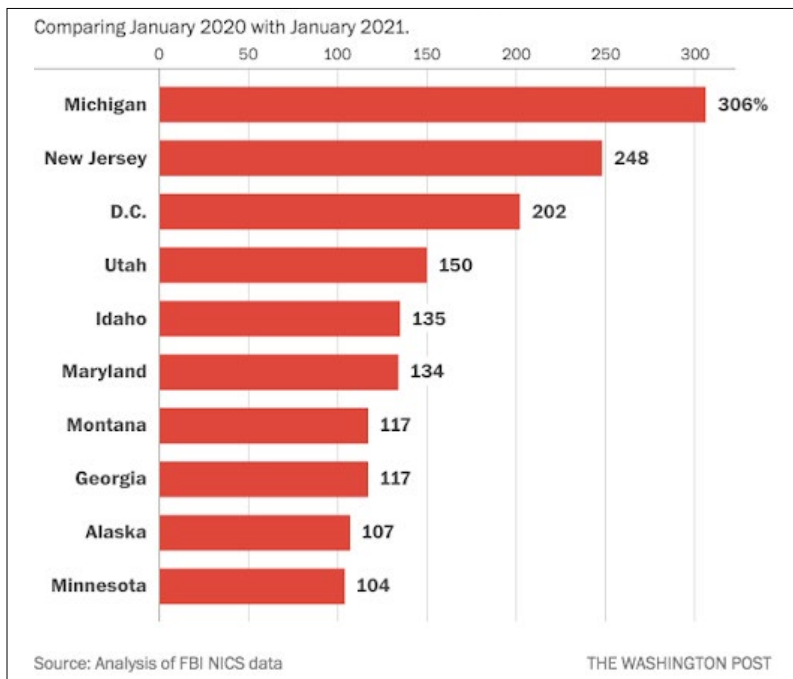
Number of federal firearm licenses for manufacturers of firearms other than destructive devices by state, 2009 and 2018



Estimated firearm sales surged in January



Ten states with the largest increase in estimated firearm sales



Sources

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